LOCAL RULES

OF

PRACTICE AND PROCEDURE

United States District Court
For the Western District of Michigan

Hon. Robert Holmes Bell, Chief Judge
Hon. Richard Alan Enslen, Senior Judge
Hon. Gordon J. Quist, Judge
Hon. Wendell A. Miles, Senior Judge
Hon. R. Allan Edgar, Senior Judge

Updated: June 21, 2006

LOCAL RULES OF CIVIL

PRACTICE AND PROCEDURE

United States District Court
For The Western District of Michigan

Effective June 1, 1998,
Including Amendments through June 21, 2006

Preface to the 1998 Edition

On March 12, 1996, the Judicial Conference approved the recommendation of the Committee on Rules of Practice and Procedure to "adopt a numbering system for local rules of court that corresponds with the relevant Federal Rules of Practice and Procedure." The action of the Judicial Conference implements the December 1, 1995 amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, which provide that all local rules of court "must conform to any uniform numbering system prescribed by the Judicial Conference." (See Appellate Rule 47, Bankruptcy Rules 8018 and 9029, Civil Rule 83, and Criminal Rule 57).

In addition to the substantive changes to the local rules found in the 1998 Edition, the Rules have been renumbered to comply with this mandate. The result is that, rather than being consecutively numbered, the rules have been assigned numbers which best correspond to the numbering scheme of the Federal Rules of Civil and Criminal Procedure. The renumbered Local Civil Rules and the renumbered Local Criminal Rules have been compiled as separate sets of Rules. Many of the rules familiar to practitioners under the prior edition remain substantively intact, but have had their provisions redistributed to two or more new rules within the newly-mandated numbering system.

Local Civil Rules which do not correspond to any rule within the Federal Rules of Civil Procedure have been assigned to Rule 83, which, in the Federal Rules of Civil Procedure, governs the rulemaking authority of the courts of the various districts.

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Local Civil Rules

* The table of contents headings follow those of the Federal Rules of Civil Procedure.

I. SCOPE OF RULES

Local Civil Rule 1. Authority; scope; construction

1.1 Authority - These rules are promulgated pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure. Amendment of these rules is governed by LCivR 83.3(f).

1.2 Short title - These rules may be cited and referred to individually as "W.D. Mich. LCivR _____."

1.3 Effective date - The effective date of these rules is June 1, 1998, including amendments through June 21, 2006.

1.4 Applicability - These rules apply to all civil proceedings in this Court.

1.5 Scope - These rules govern the procedure in the United States District Court for the Western District of Michigan, govern the practice of attorneys before this Court, and supersede all previous rules promulgated by this Court or any judge thereof. Administrative orders and single-judge standing orders shall be maintained by the Clerk and made available upon request. All such orders shall be consistent with these rules and the Federal Rules of Civil Procedure.

1.6 Construction - These rules shall be construed to achieve an orderly administration of the business of this Court and to secure the just, speedy and inexpensive determination of every action. References to statutes, regulations or rules shall be interpreted to include all revisions and amendments thereto. References to the Clerk shall be interpreted to mean the Clerk of this Court or any deputy clerk. Wherever used in these rules, the term "party," whether in the singular or plural, shall include all parties appearing in the action pro se and the attorney or attorneys of record for represented parties, where appropriate.

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

Local Civil Rule 3. Commencement of action; assignment to division and judge

3.1 Fee payment - The fee provided by 28 U.S.C. § 1914 shall be paid to the Clerk. The Clerk may require that any payment be in cash or certified check.

3.2 Assignment of cases to divisions - This district is composed of a Northern Division and a Southern Division. The residence of corporations, partnerships, and unincorporated associations shall be the division where the principal place of business is maintained. The Southern Division comprises the counties of Allegan, Antrim, Barry, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Clinton, Eaton, Emmet, Grand Traverse, Hillsdale, Ingham, Ionia, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, Saint Joseph, Van Buren, and Wexford. The Northern Division comprises the counties of Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft. 28 U.S.C. § 102(b). All cases shall be assigned to a division by application of the following order of priorities:

(a) if an action is removed from state court, the division embracing the county in which the case was pending in state court;

(b) in bankruptcy appeals, the division in which the bankruptcy matter is pending;

(c) if the action is local in nature, the division in which the real property is located;

(d) in prisoner civil rights cases, the division in which the claim arose;

(e) the division in which all plaintiffs reside;

(f) the division in which all defendants reside;

(g) the division in which the claim arose;

(h) in a case in which a defendant is an officer or employee of the United States or any agency thereof acting in an official capacity, or under color of legal authority, or an agency of the United States, the division in which an office of a defendant is located; or

(i) the division in which the case is filed.

3.3.1 Assignment of cases to judges

(a) Method - Each case, and each bankruptcy appeal, upon filing, shall be assigned to a judge,

who shall continue in the case or matter until its final disposition, except as hereinafter provided.

(b) Sequence - All initial papers in cases shall be first filed in the office of the Clerk who shall stamp on the complaint, petition, or other initial paper of each case so filed, the number of the case and the name of the judge to whom it is assigned. The numbering and assignment of each case shall be completed before processing of the next case is commenced.

(c) Procedure - The Clerk shall use automated or manual means to assign new cases to judges at random in accordance with administrative orders issued by the Court from time to time. The Clerk shall mark the name of the assigned judge on the first document of the case and preserve a record of such assignments.

(d) Exceptions

(i) Refilings - If a case is dismissed or remanded to state court and later refiled, either in the same or similar form, upon refiling it shall be assigned or transferred to the judge to whom it was originally assigned.

(ii) Subsequent proceedings - Subsequent proceedings in cases shall be assigned to the judge assigned to the original case, if that judge is still hearing cases.

(iii) Related cases - Cases related to cases already assigned to a judge shall be assigned or transferred as set out below.

(A) Definition - Cases are deemed related when a filed case (1) relates to property involved in an earlier numbered pending suit, or (2) arises out of the same transaction or occurrence and involves one or more of the same parties as a pending suit, or (3) involves the validity or infringement of a patent already in suit in any pending earlier numbered case.

(B) Determination - When it appears to the Clerk that two or more cases may be related cases, they shall be referred to the magistrate judge assigned to the judge who has the earliest case to determine whether or not the cases are related. If related, the cases will be assigned to the same judge. If cases are found to be related cases after assignment to different judges, they may be reassigned by the Chief Judge to the judge having the related case earliest filed.

(e) Miscellaneous docket - The miscellaneous docket of the Court shall be assigned in the same manner as the assignment of cases covered in this rule.

(f) Effect - This rule is intended to provide for an orderly division of the business of the Court and not to grant any right to any litigant.

(g) Duty of parties - All parties shall notify the Court in writing of all pending related cases and any dismissed or remanded prior cases.

3.3.2 Reassignment of cases

(a) Reassignment of cases on grounds of geographic convenience - Promptly after all parties have appeared in any civil action, the parties may file a stipulation and motion requesting transfer of the action to a judge located in a different city, on the basis of the convenience of counsel, the parties, or witnesses. Reassignment of the action shall be at the discretion of the Court and shall require the consent of all parties and of both the transferor and transferee judge.

(b) Reassignment to promote judicial economy - The Court may reassign cases from one district judge to another (i) to equalize and balance workloads among judges; (ii) to assign cases to senior or visiting judges or remove cases from their dockets as necessary; or (iii) for other reasons of judicial economy. Any case may be reassigned under this rule from one judge to another judge with the consent of both judges. Cases may also be reassigned by administrative order of the Chief Judge if approved by a majority of active district judges.

(c) Reassignment of cognate cases

(i) Definition - Cognate cases are pending civil actions involving the same or similar questions of fact or law such that their assignment to a single judge is likely to affect a substantial saving of judicial effort and to avoid wasteful and duplicative proceedings for the court and the parties.

(ii) Procedure for reassignment - When any judge determines that reassignment of cognate cases would serve the interests of justice and judicial economy, the judge will contact all other judges to whom cognate cases have been assigned. If all those judges agree to reassignment, the Chief Judge will enter an administrative order reassigning such cognate cases to the judge with the earliest numbered case. The administrative order may also provide for automatic assignment of future cognate cases to that judge, and for an adjustment in future case assignments to that judge to compensate for the increased workload.

3.4 In forma pauperis proceedings

(a) Motion and supporting documents - All persons applying to proceed in forma pauperis in this Court or on appeal shall file with their complaint or notice of appeal a motion for

leave to proceed in forma pauperis supported by the financial affidavit required under 28 U.S.C. § 1915(a)(1). In addition, any person incarcerated under a state or federal criminal conviction shall submit a certified copy of the prison trust fund account statement for the prisoner for the six-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined. The statement shall disclose (i) the amount then in the trust fund account; (ii) all deposits and withdrawals from the account during the six-month period immediately preceding the filing of the complaint or notice of appeal as required by 28 U.S.C. § 1915(a)(2).

(b) Determination of pauper status - A petition for leave to proceed in forma pauperis shall be presented by the Clerk to any available magistrate judge. If the financial affidavit discloses that the person is unable to pay the full filing fee or fees for service of process, the magistrate judge shall grant the petition for pauper status. The magistrate judge shall nevertheless order that a prisoner pay, within a specified period, an initial partial filing fee and make monthly payments thereafter in accordance with 28 U.S.C. § 1915(b). If the person fails to comply with the order for payment of a reduced fee, the complaint may be dismissed by a district judge or the appeal may be dismissed for want of prosecution by the Sixth Circuit Court of Appeals.

Local Civil Rule 4.1. Fee payment to marshal

4.1.1 A deposit in a sum deemed sufficient by the marshal to cover fees for the service to be performed shall be made in every instance in which the marshal is required to perform service. The marshal may require that any payment be in cash or certified check.

Local Civil Rule 5. Service and filing of pleadings and other papers

5.1 Cover sheet - A cover sheet obtained from the Clerk shall be filed with each new case and all required information shall be supplied.

5.2 Proof of service - Proof of service of all pleadings and other papers required or permitted to be served shall be filed promptly after service and may be made by written acknowledgment of service, by affidavit of the person making service or by written certification of counsel. Proof of service shall state the date and manner of service. Proof of service is unnecessary for documents served electronically on a registered attorney.

5.3 Filing of discovery materials

(a) Interrogatories, requests for production or inspection, requests for admissions, and responses or objections shall be served upon other parties, but shall not be filed with the Court. Only a proof of service shall be filed with the Court. The party responsible for service of these discovery materials shall retain the original and become the custodian.

(b) Transcripts of depositions shall not be filed with the Court.

(c) If discovery materials are to be used at trial, relevant portions of the materials to be used shall be filed with the Clerk at or before trial. If discovery materials are necessary to any motion, relevant portions of the materials shall be filed with the Clerk with the motion or response.

5.4 Place of filing - Pleadings and other papers may be filed with the Clerk at any divisional office. If a hearing is scheduled, it is incumbent upon the party to insure that the judge or magistrate judge receives a copy of such relevant pleadings or other papers sufficiently in advance of the hearing. A locked filing depository is provided for filing documents during business and certain non-business hours. The Clerk will retrieve documents from the filing depositories twice during each business day. Documents are considered filed with the Court on the date and at the time indicated by the time stamp provided at each filing depository. Documents that are not stamped with the time stamp will be considered filed with the Court on the date and at the time they are retrieved by the Clerk's Office.

5.5 Rejection of filings - The Court may order the Clerk to reject any pleading or other paper that does not comply with these rules or the Federal Rules of Civil Procedure unless such noncompliance is expressly approved by the Court. The Clerk shall return any rejected filing to the party tendering it, along with a statement of the reasons for rejection.

5.6 Pleadings and other papers in particular cases

(a) Actions by prisoners - Habeas corpus petitions or complaints brought under the Civil Rights Acts by prisoners proceeding pro se shall be in the form specified by the Court.

The Clerk shall make such forms available to prisoners desiring to file such actions.

(b) In pro per petitions - Absent good cause, in all proceedings brought in propria persona or in forma pauperis, the petition or complaint shall not be accepted for filing unless it is accompanied by a copy or copies in number sufficient for service on the respondent(s) or the defendant(s).

5.7 Filing and service by electronic means

(a) General information; definitions - Pursuant to Rule 5(e) of the Federal Rules of Civil Procedure, the Clerk will accept pleadings and other papers filed and signed by electronic means in accordance with this rule. All papers filed by electronic means must comply with technical standards, if any, now or hereafter established by the Judicial Conference of the United States.

This rule shall apply to all civil actions maintained in the court's electronic case filing system. All documents, whether filed electronically or on paper, will be placed into the electronic case filing system, except for sealed documents and certain voluminous documents. Attorneys must file and serve all documents electronically by use of the ECF system unless (1) the attorney has been specifically exempted by the Court for cause or (2) a particular document is not eligible for electronic filing under this rule.

As used in this rule, the term

- "ECF system" means the electronic case filing system maintained by this Court;
- "registered attorney" means an attorney who is authorized pursuant to Rule 5.7(b) to file documents electronically and to receive service on the ECF system;
- "initial pleading" means the complaint, petition or other document by which a civil action is initiated;
- "electronically filed document" means any order, opinion, judgment, pleading, notice, transcript, motion, brief or other paper (except an initial pleading) submitted electronically to the ECF system;
- "traditionally filed document" means a pleading or other paper submitted to the Clerk in paper form for filing;
- "NEF" means the Notice of Electronic Filing generated by the ECF system;
- "nonelectronic means of service" means one of the methods of service authorized by Rule 5(b) of the Federal Rules of Civil Procedure, except electronic service

under Rule 5(b)(2)(D).

(b) Mandatory registration; Attorney training

(i) Every attorney practicing in this Court must register to file and serve documents electronically by the ECF system.

(ii) To be entitled to register as a user of the ECF system, an attorney must be admitted to practice in this District, be a member in good standing, and have filed with the Clerk a completed ECF Attorney Registration form. In addition, the attorney or the attorney's firm must have a Public Access to Court Electronic Records (PACER) account and an e-mail address.

Detailed registration information is available on the Court's Website (www.miwd.uscourts.gov). Upon receipt of the ECF Attorney Registration form, the Court will issue a login name and a user password to qualified attorneys. All registered attorneys have an affirmative duty to inform the Clerk immediately of any change in their e-mail address. A registered attorney may not knowingly cause or allow another person to file a document using the attorney's login name and password, except for members of the attorney's staff. Use of an attorney's login name and password by a staff member is deemed to be the act of the attorney. However, a registered attorney must not allow an unregistered attorney, even a member of the same firm, to use his or her login name and password. If a login name and/or password should become compromised, the attorney is responsible for notifying the ECF Help Desk immediately.

(iii) The Clerk's Office will provide periodic training sessions on use of the ECF system. The Court will also provide on its Website an on-line tutorial demonstrating the use of the ECF system. Law firms are encouraged to have individuals responsible for electronic filing (attorney, paralegal or automation specialist) attend a live training session or the on-line tutorial.

(c) Initial pleading - The filing of the initial pleading, issuance and service of the summons, and payment of initial filing fees must be accomplished in the traditional manner (not electronically). Attorneys, however, are strongly encouraged to accompany their initial pleading with a diskette or CD-ROM of their papers in portable document format (PDF), so that these documents can be added to the electronic case file.

(d) Electronic filing

(i) Filing - All attorneys must file pleadings and other papers permitted by the Federal Rules and the Local Rules of this Court (except initial pleadings) electronically in all civil cases, subject to the exceptions set forth below. All electronically filed

documents must be in PDF digital format and must be submitted in accordance with the instructions set forth on the Court's Website in the User's Manual. Attorneys are strongly urged to accompany all *traditionally filed documents* with a diskette or CD ROM of their papers in PDF digital format, to facilitate adding the document to the electronic case file.

(ii) Papers that may not be filed electronically - The following documents must not be filed electronically, but must be submitted in paper form:

(A) Documents filed under seal pursuant to W.D. Mich. LCivR 10.6;

(B) The state-court record and other Rule 5 materials in habeas corpus cases filed under 28 U.S.C. § 2254;

(C) Administrative records and transcripts in social security cases and transcripts or voluminous exhibits in other administrative review cases;

(D) Handwritten papers or pleadings;

(E) Any document or attachment thereto exceeding 5MB in size.

(iii) Documents that must be accompanied by a signed original - The following documents must be filed electronically but must be accompanied by a signed original document, with a copy served on all other parties:

(A) Affidavits in support of or in opposition to a motion (affidavits of service may be filed electronically without filing a signed original);

(B) Declarations under penalty of perjury;

(C) Certified copies of judgments or orders of other courts.

The electronically filed version of such documents must contain an "s/_____" block indicating that the paper document bears an original signature.

(iv) Deadlines - Filing documents electronically does not in any way alter any filing deadlines. An electronically filed document is deemed filed upon completion of the transmission and issuance by the Court's system of an NEF. In situations where Rule 5.7(d)(vii) requires that attachments to an electronically filed document be submitted in paper form, the electronic document is deemed filed upon issuance of the NEF, provided that the paper exhibits are filed and served within 72 hours thereof. In situations where Rule 5.7(d)(iii) requires filing of a signed, original

document in addition to the electronic document, the document is deemed filed upon issuance of the NEF, provided that the signed original is filed within 72 hours thereof. All electronic transmissions of documents must be completed (i.e., received completely by the Clerk's Office) prior to midnight, Eastern Time, in order to be considered timely filed that day. Where a specific time of day deadline is set by Court order or stipulation, the electronic filing must be completed by that time.

(v) Technical failures - The Clerk shall deem the Court's Website to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon (Eastern Time) that day, in which case, filings due that day which were not filed due solely to such technical failures shall become due the next business day. Such delayed filings must be accompanied by a declaration or affidavit attesting to the filer's failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay because of such technical failure. The initial point of contact for any practitioner experiencing difficulty filing a document electronically shall be the ECF Help Desk, available via phone at (616) 456-2206 or (800) 290-2742, or via e-mail at ecfhelp@miwd.uscourts.gov.

(vi) Official record; discarding of traditionally filed documents - For purposes of Rule 79 of the Federal Rules of Civil Procedure, the record of filings and entries created by the ECF system for each case constitutes the docket. The official record of all proceedings in civil cases filed on and after August 1, 2001, is the electronic file maintained on the Court's ECF system. After a case is closed and all appeals of right are completed, the Clerk's Office will discard all traditionally filed documents that are part of the electronic record.

(vii) Exhibits and attachments - Filers must not attach as an exhibit any pleading or other paper already on file with the Court, but shall merely refer to that document. All exhibits and attachments, whether filed electronically or traditionally, must contain on their face a prominent exhibit number or letter. Exhibits too large to be filed electronically may be submitted traditionally. If one or more attachments or exhibits to an electronically filed document are being submitted traditionally under this rule, the electronically filed document must contain a notice of that fact in its text. For example:

(Exhibits 1, 2 and 3 to this Motion are filed electronically; Exhibits 4 and 5 are filed in paper form pursuant to Local Rule 5.7(d)(vii)).

or

(All exhibits to this brief are filed in paper form pursuant to Local Rule 5.7(d)(vii)).

(e) Signature

(i) Attorneys - A registered attorney's use of the assigned login name and password to submit an electronically filed document serves as the registered attorney's signature on that document for purposes of Fed. R. Civ. P. 11 and for all other purposes under the Federal Rules of Civil Procedure and the Local Rules of this Court. The identity of the registered attorney submitting the electronically filed document must be reflected at the end of the document by means of an "s/[attorney's name]" block showing the attorney's name, followed by the attorney's business address, telephone number, and e-mail address.

(ii) Multiple signatures - The filer of any electronically filed document requiring multiple signatures (e.g., stipulations, joint status reports) must list thereon all the names of other signatories by means of an "s/____" block for each. By submitting such a document, the filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has their actual authority to submit the document electronically. The filer must maintain any records evidencing this concurrence for subsequent production to the Court if so ordered or for inspection upon request by a party until one year after the final resolution of the action (including appeal, if any). A non-filing signatory or party who disputes the authenticity of a signature on an electronically filed document must file an objection to the document within 10 days after service of that document.

(iii) Court reporters - The electronic filing of a transcript by a court reporter by use of the court reporter's login name and password shall be deemed the filing of a signed and certified original document for all purposes.

(iv) Judges - The electronic filing of an opinion, order, judgment or other document by a judge (or authorized member of the judge's staff) by use of the judge's login and password shall be deemed the filing of a signed original document for all purposes.

(v) Clerk of Court or Deputy Clerks - The electronic filing of any document by the Clerk of Court or by a Deputy Clerk by use of that individual's login and password shall be deemed the filing of a signed original document for all purposes.

(vi) Office of the U.S. Marshal. The office of the U.S. Marshal for this District is authorized to file and serve documents electronically. The electronic filing of any document by the Office of the U.S. Marshal by use of the assigned login and password shall be deemed the filing of a signed original document for all purposes.

(f) Proposed pleadings - If the filing of an electronically submitted document requires leave

of court, such as an amended complaint or brief in excess of page limits, the proposed document must be attached as an exhibit to the motion seeking leave to file. If the Court grants leave to file the document, the Clerk of Court will electronically file the document without further action by the attorney.

(g) Proposed orders - Proposed orders may be submitted electronically. All proposed orders must be in PDF format and must be: (1) attached as an exhibit to a motion or stipulation; or (2) contained within the body of a stipulation; or (3) submitted separately. If the Judge approves the proposed order, it will be refiled electronically under a separate document number.

(h) Service of electronically filed documents

(i) Summons and initial pleading - Service of the summons and complaint or other initial pleading must be made by one of the methods allowed by Rule 4 of the Federal Rules of Civil Procedure and may not be made electronically.

(ii) Service on registered attorneys - By registering under this rule, an attorney automatically consents to electronic service by both the Court and any opposing attorney of any electronically filed document in any civil action in which the registered attorney appears. Consequently, service of an electronically filed document upon a registered attorney is deemed complete upon the transmission of an NEF to that attorney under subsection (h)(iv) of this rule and a separate certificate of service is not required to be filed. Traditionally filed documents must be served on registered attorneys by nonelectronic means of service.

(iii) Service on unregistered attorneys and *pro se* parties - If an opposing attorney is not registered under this rule, counsel filing any pleading or other paper must serve that attorney by nonelectronic means of service. *Pro se* parties must be served by nonelectronic means of service under Rule 5.

(iv) Method of electronic service - At the time a document is filed either electronically or by scanning paper submissions, the Court's system will generate an NEF, which will be transmitted by e-mail to the filer and all registered attorneys who have appeared on that case. The NEF will contain a hyperlink to the filed document. The attorney filing the document should retain a paper or digital copy of the NEF, which serves as the Court's date-stamp and proof of filing. Transmission of the NEF to the registered e-mail address constitutes service of an electronically filed document upon any registered attorney. Only service of the NEF by the Court's system constitutes electronic service; transmission of a document by one party to another by regular e-mail does not constitute service.

(v) Effect on time computation - Electronic service under this rule is complete upon

transmission. The additional three (3) days to do an act or take a proceeding after service of a document applies when service is made electronically, by virtue of Fed. R. Civ. P. 6(e).

(i) Access to electronically stored documents - The general public, as well as any party to the litigation, may access and download any electronically stored document, with the following exceptions: (1) access to documents filed in social security cases is restricted to the attorneys of record; and (2) the Court may restrict access to other classes of documents by future order in conformity with resolutions of the Judicial Conference of the United States. The provisions of Local Civil Rule 10.7 concerning privacy apply to all electronically stored documents.

(j) Facsimile transmissions - The Clerk will not accept for filing any pleading or other paper submitted by facsimile transmission.

III. PLEADINGS AND MOTIONS

Local Civil Rule 7. Motion practice

7.1 Motions in general

(a) Briefs - All motions, except those made during a hearing or trial, shall be accompanied by a supporting brief. Any party opposing a written motion shall do so by filing and serving a brief conforming to these rules. All briefs filed in support of or in opposition to any motion shall contain a concise statement of the reasons in support of the party's position and shall cite all applicable federal rules of procedure, all applicable local rules, and the other authorities upon which the party relies. Briefs shall not be submitted in the form of a letter to the judge.

(b) Supporting documents - When allegations of facts not appearing of record are relied upon in support of or in opposition to any motion, all affidavits or other documents relied upon to establish such facts shall accompany the motion. All discovery motions shall set forth verbatim, or have attached, the relevant discovery request and answer or objection.

(c) Modification of limits - In its discretion, the Court may in a particular case shorten or enlarge any time limit or page limit established by these rules, with or without prior notice or motion.

(d) Attempt to obtain concurrence - With respect to all motions, the moving party shall ascertain whether the motion will be opposed. In addition, in the case of all discovery motions, counsel or pro se parties involved in the discovery dispute shall confer in person or by telephone in a good-faith effort to resolve each specific discovery dispute. All motions shall affirmatively state the efforts of the moving party to comply with the obligation created by this rule.

(e) Motion for expedited consideration - Where the relief requested by a motion may be rendered moot before the motion is briefed in accordance with the schedules set forth herein, the party shall so indicate by inserting the phrase "EXPEDITED CONSIDERATION REQUESTED," in boldface type, below the case caption, and shall identify in the motion the reason expedited consideration is necessary.

(f) Unavailability of judge - If it appears that any matter requires immediate attention, and the judge to whom the case has been assigned, or in the usual course would be assigned, is not available, the matter shall be referred to the judge's assigned magistrate judge, who shall decide the matter if it is within the magistrate judge's jurisdiction. If the matter can only be decided by a judge, the magistrate judge shall determine whether the matter can be set for a hearing at a time when the assigned judge is available. If the matter is determined

by a magistrate judge to require an immediate hearing before a judge, the case will be referred to the Chief Judge, or in the Chief Judge's absence, the next available judge by seniority for decision or reassignment to an available judicial officer. After disposition of this emergency matter, the case will be returned to the originally assigned judge.

7.2 Dispositive motions

(a) Definition - Dispositive motions are motions for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, to involuntarily dismiss an action, and other dispositive motions as defined by law. Motions for dismissal as a sanction pursuant to Federal Rules of Civil Procedure 16 or 37 shall be subject to the briefing schedule for nondispositive motions.

(b) Length of briefs - Any brief filed in support of or in opposition to a dispositive motion shall not exceed twenty-five (25) pages in length, exclusive of cover sheet, tables, and indices.

(c) Briefing schedule - Any party opposing a dispositive motion shall, within twenty-eight (28) days after service of the motion, file a responsive brief and any supporting materials. The moving party may, within fourteen (14) days after service of the response, file a reply brief not exceeding ten (10) pages. The Court may permit or require further briefing.

(d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party' s brief. In its discretion, the Court may schedule oral argument or may dispose of the motion without argument at the end of the briefing schedule. The time for oral argument on all motions shall be scheduled and noticed by the Court at the earliest convenient date.

7.3 Nondispositive motions

(a) Definition - Nondispositive motions are all motions not specifically listed in LCivR 7.2.

(b) Length of briefs - Any brief filed in support of or in opposition to a nondispositive motion shall not exceed ten (10) pages in length, exclusive of cover sheet, tables, and indices.

(c) Briefing schedule - Any party opposing a nondispositive motion shall, within fourteen (14) days of service of the motion, file a responsive brief and supporting materials. Reply briefs may not be filed without leave of court.

(d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party' s brief. In its discretion, the Court may schedule oral argument or may dispose of the motion without argument at the end of the briefing

schedule. The time for oral argument on all motions shall be scheduled and noticed by the Court at the earliest convenient date.

7.4 Motions for reconsideration

(a) Grounds - Generally, and without restricting the discretion of the Court, motions for reconsideration which merely present the same issues ruled upon by the Court shall not be granted. The movant shall not only demonstrate a palpable defect by which the Court and the parties have been mislead, but also show that a different disposition of the case must result from a correction thereof.

(b) Response to motions for reconsideration - No answer to a motion for reconsideration will be allowed unless requested by the Court, but a motion for reconsideration will ordinarily not be granted in the absence of such request. Any oral argument on a motion for reconsideration is reserved to the discretion of the Court.

Local Civil Rule 8. Complaints in Social Security cases

8.1 Complaints filed pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for benefits under Titles II, XVI and XVII of the Social Security Act shall contain, in addition to what is required under Rule 8(a) of the Federal Rules of Civil Procedure, the following information: (1) the type of benefit claimed, for example, disability, retirement, survivor, health insurance, supplemental security income; (2) in cases involving claims for retirement, survivors, disability, or health insurance, the social security number of the worker (who may or may not be the plaintiff) on whose wage record the application for benefits was filed; and (3) in cases involving claims for supplemental security income benefits, the social security number of the plaintiff.

Local Civil Rule 10. Form of pleadings and other papers; filing requirements

10.1 Paper size and format - All documents must be double spaced in 8 ½ x 11 inch format with writing on only the face of each sheet. Type must be no smaller than 12 point type and all margins must be at least one inch.

10.2 Binding - All pleadings and other papers that have numerous pages must be bound with a fastener. Originals should be stapled or bound on the top margin with a two-hole fastener. Copies may be bound in the same manner as originals or in a binder. Paper clips and other types of clips shall not be used; fasteners shall pass through the pages.

10.3 Date, address and telephone number - All pleadings and other papers shall contain the date of signing and the address and telephone number of the signing attorney or pro se party.

10.4 Number of copies - All traditionally filed documents must be filed in duplicate -- the original and one copy. If service of any paper is to be made by the United States Marshal, sufficient additional copies shall be supplied for service upon each other party. If file stamped copies of documents are requested to be returned to the offering party, a suitable self-addressed, postage paid envelope shall be supplied.

10.5 Tendering of orders - A party tendering an order for entry must supply the Clerk with the original for the judge to sign. All orders will be distributed to the parties by the Clerk.

10.6 Filing under seal

(a) Request to seal - Requests to seal a document must be made by motion and will be granted only upon good cause shown. If the document accompanies the motion, it shall be clearly labeled "Proposed Sealed Document" and shall include an envelope suitable for sealing the document. The envelope shall have the caption of the case, case number, title of document, and the words "Contains Sealed Documents" prominently written on the outside. The document shall not be considered sealed until so ordered by the Court.

(b) Documents submitted pursuant to court order - A document submitted pursuant to a previous order by the Court authorizing the document to be filed under seal shall be clearly labeled "Sealed Document," shall be submitted in an envelope suitable for sealing the document, and identify the order or other authority allowing filing under seal. The caption of the case, case number, title of document, and the words "Contains Sealed Documents" shall be prominently written on the outside of the envelope.

(c) Expiration of seal - Unless otherwise ordered by the Court, thirty days after the termination of a case or any appeal, whichever is later, sealed documents and cases will be unsealed by the Court.

10.7 Privacy - In compliance with the policy of the Judicial Conference of the United States, and the E-

Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings and other papers, including exhibits thereto, maintained electronically on the Court's CM/ECF system, unless otherwise ordered by the Court.

(a) Social Security numbers - If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.

(b) Names of minor children - If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(c) Dates of birth - If an individual's date of birth must be included in a pleading, only the year should be used.

(d) Financial account numbers - If financial account numbers are relevant, only the last four digits of these numbers should be used.

Redaction of personal identifiers is not required for administrative records and transcripts in social security cases, the state-court record in habeas corpus cases, or for other documents that may not be maintained electronically under Local Civil Rule 5.7(d)(ii).

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may, a) file an unredacted document under seal; or b) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

The unredacted version of the document or the reference list shall be retained by the court as part of the record. The party is required to file a redacted copy for inclusion in the public file.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties.

10.8 Exhibits - All exhibits or attachments to pleadings, motions, briefs, or other papers must contain on their face a prominent exhibit number or letter.

Local Civil Rule 16. Civil pretrial conferences; Alternative Dispute Resolution

16.1 Early scheduling conference - The Court may order that an early scheduling conference be held before a magistrate judge or Article III judge either in open court, in chambers, or at the discretion of the Court, by telephone. Following this conference, the Court will issue a case management order establishing a timetable for disposition of the case. The timetable may contain deadlines for joinder of parties and amendment of pleadings; discovery disclosures and exchange of witnesses; completion of discovery and dispositive motions; a methodology of ADR; a settlement conference date; a final pretrial conference date; and a trial date. Upon good cause shown or on the Court's own initiative, the Court may modify the case management order in the interest of justice. The following provisions shall apply to all conferences conducted by the Court pursuant to Rule 16 of the Federal Rules of Civil Procedure:

(a) Recording - At the request of any party or the direction of the Court, the conference may be recorded. For good cause, the Court may direct that portions of the conference be unrecorded or sealed.

(b) Scope - The conference shall cover the matters specified in Rules 16 and 26 of the Federal Rules of Civil Procedure and any other matters specified by the Court.

(c) Attendance - The attorney who is to have charge of the actual trial of the case shall attend the conference unless the judge directs otherwise. Pro se parties shall attend on their own behalf.

(d) Authority - The Court may in its discretion require the actual parties (i.e., a party who is a natural person or a representative--other than counsel--of a party which is not a natural person) to attend the conference and may require that counsel be authorized to discuss final settlement of the case.

(e) Scheduling - The Court shall set the date, time and place of the conference and shall notify all parties thereof in writing.

(f) Pretrial order - A proposed order shall be prepared and filed by the parties in accordance with written instructions from the judge to whom the case has been assigned.

(g) Exemptions from scheduling and planning order - The following categories of actions are exempt from the requirement in Rule 16(b) of the Federal Rules of Civil Procedure that a scheduling and planning order be entered:

(i) actions brought pursuant to the Freedom of Information Act;

(ii) petitions for writ of habeas corpus;

(iii) motions filed pursuant to 28 U.S.C. § 2255;

(iv) all other petitions brought by prisoners incarcerated in federal or state facilities;

(v) appeals from bankruptcy decisions;

(vi) all actions brought by the United States to collect student loans and all other debts owed to the United States government;

(vii) actions involving the review of Social Security benefit denials;

(viii) all applications for attorneys' fees and costs;

(ix) multidistrict litigation;

(x) condemnation proceedings;

(xi) forfeiture actions by the United States;

(xii) appeals from a decision by a United States magistrate judge;

(xiii) motions to quash or enforce administrative subpoenas; and

(xiv) petitions to enforce Internal Revenue Service summonses.

16.2 Alternative Dispute Resolution: General provisions

(a) ADR favored - The judges of this District favor alternative dispute resolution (ADR) methods in those cases where the parties and the Court agree that ADR may help resolve the case. The ADR methods approved by these rules include Voluntary Facilitative Mediation (LCivR 16.3); Early Neutral Evaluation (LCivR 16.4); Case Evaluation (LCivR 16.5); Court-Annexed Arbitration (LCivR 16.6); Summary Jury Trials, Summary Bench Trials (LCivR 16.7); and Settlement Conferences (LCivR 16.8). In addition, the Court will consider other ADR methods proposed by the parties.

(b) Court administration of the ADR program

(i) Program Description and Administration - Each ADR program is governed by these rules and the provisions of a Program Description, which is incorporated into these rules by reference. The Program Description for each ADR method is available on the Court's website and is published in a form suitable for reference by attorneys and their clients. The ADR program is administered by the Clerk's Office. Problems are initially handled by the ADR Administrator.

(ii) Evaluation of the program - In an effort to gather information, the Court may develop questionnaires for participants, counsel and neutrals, to be completed and returned at the close of the ADR process. Responses will be kept confidential and not divulged to the Court, the attorneys or the parties. Only aggregate information about the program will be reported.

(c) Consideration of ADR in appropriate cases - In connection with the conference held pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, all litigants and counsel must consider and discuss the use of an appropriate ADR process at a suitable stage of the litigation.

(d) Confidentiality - All ADR proceedings are considered to be compromise negotiations within the meaning of Fed. R. Evid. 408.

(e) Status of discovery, motions and trial during the ADR process - Any case referred to ADR continues to be subject to management by the judge to whom it is assigned. Parties may file motions and engage in discovery. Selection of a case for ADR has no effect on the normal progress of the case toward trial. Referral of a case to ADR is not grounds to avoid or postpone any deadline or obligation imposed by the case management order unless so ordered by the court.

(f) Qualifications for neutrals - To be qualified to act as a neutral (i.e., facilitative mediator, early neutral evaluator, case evaluator, or arbitrator), an attorney must have at least ten (10) years of experience in the practice of law and must satisfy any special requirements applicable to a particular ADR program. No person may serve as a neutral in any action in which any of the circumstances specified in 28 U.S.C. § 455 exist, or where his or her impartiality might reasonably be questioned.

(g) Attorneys' responsibility for payment of fees - The attorney or law firm representing a party participating in ADR is directly responsible for fees payable to the court or to neutrals. Pro se parties are personally responsible for fees. To the extent consistent with ethical rules, the attorney or firm may seek reimbursement from the client. If any attorney or pro se party is delinquent in paying any fee required to be paid to a neutral under these rules, the neutral may petition the court for an order directing payment, and any judge or magistrate judge assigned to the case may order payment, upon pain of contempt.

(h) Pro bono service - In cases in which one or more parties cannot afford the fees of a neutral, the court may request that the neutral serve pro bono, by waiving or reducing the fee for the indigent party. All other parties are expected to pay the full fee.

16.3 Voluntary Facilitative Mediation

(a) Definition - Voluntary Facilitative Mediation (VFM) is a flexible, nonbinding dispute

resolution process in which an impartial third party -- the mediator -- facilitates negotiations among the parties to help them reach settlement. VFM seeks to expand traditional settlement discussions and broaden resolution options, often by going beyond the issues in controversy. The mediator, who may meet jointly and separately with the parties, serves as a facilitator only and does not decide issues or make findings of fact. Cases will be assigned to VFM only if the district or magistrate judge is satisfied that the selection of VFM is purely voluntary and with full approval of all parties.

(b) Qualification, certification and removal of mediators - The Court maintains a list of certified mediators. Criteria for training, certification, retention and removal of mediators are governed by the VFM Program Description.

(c) Mediation assessment - The Court shall assess a fee per referral in accordance with the VFM procedures adopted by the Court. The monies will be deposited into the Voluntary Facilitative Mediation Training Fund. In a pro bono mediation, the assessment is waived for any indigent party.

(d) Selection and compensation of mediator

(i) Selection of mediator - Within ten (10) calendar days of the issuance of the case management order, the parties jointly select one mediator from the list of court certified mediators. The plaintiff is responsible for notifying the ADR Administrator of the name of the selected mediator. If the parties are unable to agree on a mediator, the ADR Administrator selects the mediator for them. The proposed mediator will then check for conflicts of interest. Once the selection of a mediator is finalized, the judge issues an order of referral.

(ii) Compensation of mediator - The mediator is paid his or her normal hourly rate, assessed in as many equal parts as there are separately represented parties, unless otherwise agreed in writing. The mediator is responsible for billing counsel and pro se parties.

(e) The mediation process

(i) The details of the VFM process, including establishment and timing of VFM sessions and submissions by the parties to the mediator, are set forth in general in the VFM Program Description, and, with regard to each specific case, in an order of referral for facilitative mediation.

(ii) Party responsibilities - Individual parties and representatives of corporate or government parties with ultimate settlement authority are required to attend the mediation session(s). In cases involving insurance carriers, the insurer representative with ultimate settlement authority must attend. Each party must be

accompanied at the VFM session by the lawyer expected to be primarily responsible for handling the trial of the matter.

(f) Filing of outcome - Within fourteen (14) days following the conclusion of mediation, if settlement is reached, the mediator helps the parties draft a settlement agree and a stipulation and proposed order to dismiss. If settlement is not reached, the parties have seven (7) calendar days to inform the mediator whether they desire to continue with the mediation process. Within ten (10) calendar days of the completion of mediation process, the mediator files a brief report with the ADR Administrator, with copies to all parties. The report indicates only who participated in the mediation session and whether settlement was reached and if not, whether the process will be continuing.

16.4 Early Neutral Evaluation

(a) Definition - Early Neutral Evaluation (ENE) is a flexible, nonbinding dispute resolution process in which an experienced neutral attorney meets with the parties early in the case to evaluate its strengths and weaknesses and the value that it may have, and also attempts to negotiate a settlement.

(b) Selection and compensation of evaluator

(i) Selection of evaluator - Counsel for the parties jointly select an evaluator who meets the criteria for neutrals under this rule. If the parties are unable to agree on an evaluator, the ADR Administrator selects the evaluator for them. No listing of evaluators is maintained by the Court or the Clerk. The proposed evaluator will check for conflicts of interest. Once the selection process is finalized, the judge issues an order of referral.

(ii) Compensation of evaluator - The evaluator is paid his or her normal hourly rate, assessed in as many equal parts as there are separately represented parties, unless otherwise agreed in writing. The evaluator is responsible for billing counsel and pro se parties.

(c) The early neutral evaluation process

(i) Program description - The details of the ENE process, including the duties of the evaluator, the establishment and timing of ENE sessions, and submissions of the parties to the evaluator, are set forth in the ENE Program Description. Parties participating in ENE must follow the requirements of the Program Description, including the special requirements applying to patent, copyright and trademark cases.

(ii) Party responsibilities - Individual parties and representatives of corporate or

government parties with ultimate settlement authority are required to attend the ENE session(s). In cases involving insurance carriers, the insurer representative with ultimate settlement authority must attend. Each party must be accompanied at the ENE session by the lawyer expected to be primarily responsible for handling the trial of the matter.

(d) Filing of outcome - Within fourteen (14) days following the conclusion of ENE, if settlement is reached, the evaluator, if requested, helps the parties draft a settlement agreement along with a stipulation and proposed order to dismiss, which when executed is filed with the Court. If settlement is not reached, the parties have seven (7) calendar days to inform the evaluator whether they desire to continue with the ENE process. Within ten (10) calendar days of the completion of the ENE process, the evaluator files a brief report with the ADR Administrator, with copies to all parties. The report indicates only who participated in the ENE session and whether issues were narrowed or settlement was reached.

16.5 Case Evaluation

(a) Definition - The case evaluation program affords litigants an ADR process patterned after that extensively used in the courts of the State of Michigan. See Mich. Comp. Laws §§ 600.4951-.4969; Mich. Ct. R. 2.403. Case evaluation principally involves establishment of the settlement value of a case by a three-member panel of attorneys. The court may order that any civil case in which damages are sought be submitted to case evaluation; certain tort cases in which the rule of decision is supplied by Michigan law must be submitted to case evaluation, unless the parties unanimously agree to submit the case to Voluntary Facilitation Mediation.

(b) Standard case evaluation

(i) Adoption of Michigan state-court procedures; exceptions - The procedures governing standard case evaluation are generally set forth in Rule 2.403 of the Michigan Rules of Court. Unless modified by these rules, the Program Description, or order of court in a particular case, the provisions of Mich. Ct. R. 2.403, as amended from time to time, will govern in cases referred to standard case evaluation, except as follows:

(A) Panel selection - The ADR Administrator selects all three case evaluators.

(B) Fees - Each party must send each evaluator a check for $100.00, for a total fee of $300 per party. Promptly thereafter, a proof of payment must be filed with the ADR Administrator. Failure to submit a proof showing timely payment subjects the offending attorney to a $150.00 penalty, which may not be charged to the client. The rules set forth in Mich. Ct. R. 2.403

for allocation of fees among multiple parties or claims apply. Once paid, the fee is not subject to refund.

(C) Submission of documents - The rules for submission of documents set forth in Mich. Ct. R. 2.403 apply, except that case evaluation summaries are limited to 20 pages and attachments must not exceed 20 pages. Documents must be submitted directly to the evaluators, with a proof of service filed with the ADR Administrator. Failure to file or serve such documents in a timely manner subjects the offending party to a $150.00 penalty, which may not be charged to the client.

(D) Time limit at hearing - Each side's presentation at the case evaluation hearing is limited to 30 minutes.

(E) Time in which award must be rendered - The evaluators render a written evaluation at the close of the hearing and serve it personally on the parties at that time.

(F) Rejecting party's liability for costs

(1) In diversity tort cases where Michigan law provides the rule of decision, this Court has determined that the state statute and court rules requiring case evaluation form a part of state substantive law. Such tort cases will be referred to mandatory case evaluation, unless the parties unanimously agree to Voluntary Facilitative Mediation. In all tort cases ordered to mandatory case evaluation, the provisions of Rule 2.403 governing liability for costs, including taxation of a reasonable attorney fee for rejection of a case evaluation award, apply.

(2) In cases in which case evaluation is not mandatory, the provisions of Mich. Ct. R. 2.403 governing liability for costs apply, except that attorneys' fees will not be taxed for rejection of a case evaluation award.

(3) In any case referred to case evaluation, the parties may stipulate in writing to the assessment of attorneys' fees in accordance with Mich. Ct. R. 2.403.

(c) Blue Ribbon case evaluation - Blue Ribbon case evaluation allows the parties to choose their own evaluators and to request that the evaluators devote substantial time to the evaluation process. A case may be referred to Blue Ribbon case evaluation only with the unanimous and voluntary consent of the parties. All procedures applicable to standard case

evaluation apply, except:

(i) Selection of evaluators - The parties jointly select the evaluators, who need not be members of the Court's certified list.

(ii) Fees - Evaluators are compensated at their customary hourly rate, to be assessed in as many equal parts as there are separately represented parties, or as otherwise agreed by the parties at the time case evaluation is ordered. No late fees are imposed for untimely submissions.

(iii) Mediation briefs and hearings - No limits apply to length of Blue Ribbon case evaluation hearings or to the length of case evaluation briefs, unless agreed to in writing by the parties.

(iv) Time for rendering award - In an extraordinary case, where the award cannot reasonably be rendered at the conclusion of the hearing, the evaluators may render their written evaluation no later than seven days after the hearing.

16.6 Court-Annexed Arbitration

(a) Definition - Court-annexed arbitration is an arbitration procedure authorized for certain cases by 28 U.S.C. §§ 651-658. The arbitrator hears evidence in a formal hearing, at which the rules of evidence apply, and issues an award reflecting the merits of the case, as opposed to its settlement value.

(b) Actions subject to this rule

(i) By order - The court may order any civil case to court-annexed arbitration, except:

(A) where the action alleges a violation of a right secured by the Constitution, or

(B) jurisdiction is based in whole or in part on 28 U.S.C. § 1343; or

(C) where the amount in controversy exclusive of interests, costs, attorney's fees or punitive damages exceeds $150,000. The court may presume that the amount in controversy does not exceed $150,000 unless counsel certifies in writing that damages exceed that amount.

(ii) By consent - The parties may consent to the submission of any case to arbitration. Consent must be unanimous and must be freely given. No party may be sanctioned or otherwise prejudiced for refusing to consent.

(c) Consent to a final determination

(i) The parties may consent before the hearing that the award of the arbitrator shall be deemed a final determination on the merits and that judgment shall be entered thereon by the Court. In the absence of consent, the effect of the award will be governed by subsections (h) and (i).

(ii) Any consent filed hereunder must be in writing, signed by all attorneys of record or pro se parties. No judicial officer may threaten or coerce any party to consent, but may suggest the advisability of consent in any case. No party or attorney may be sanctioned or otherwise prejudiced by reason of a failure or refusal to consent.

(d) Certification and qualification of arbitrators

(i) Certification of arbitrators - The Chief Judge certifies as many arbitrators as necessary under this rule, after consultation with the judges of the Court and the Court's Committee on Alternative Dispute Resolution.

(ii) Arbitrator qualifications - An attorney may be certified to serve as an arbitrator if that person meets the general requirements for neutrals and:

(A) is a member of the Bar of the State of Michigan and the Bar of this Court for the time periods set forth in the Program Description, and

(B) is determined by the judges to be qualified and competent to perform the duties of an arbitrator.

(iii) Oath or affirmation - Before serving, each certified arbitrator must take the oath or affirmative prescribed by 28 U.S.C. § 453.

(e) Selection and compensation of arbitrators

(i) Selection of arbitrators - Within ten (10) calendar days from the order of referral to arbitration, the parties jointly select one arbitrator from the list of court certified arbitrators. Plaintiff is responsible for notifying the ADR Administrator of the name of the selected arbitrator. If the parties fail to reach a timely agreement, the ADR Administrator will select an arbitrator for them. The ADR Administrator then notifies the arbitrator of his or her selection, and requests a check for potential conflicts of interest. If a conflict is found to exist, the arbitrator notifies the ADR Administrator, who will either select an alternative arbitrator or request that the parties make a new selection.

(ii) Compensation and expense of arbitrators - Arbitrators are paid a fee of two

hundred fifty dollars ($250.00) plus reimbursement for expenses reasonably incurred. The arbitrator submits a voucher on the form prescribed by the Clerk when the arbitrator files a decision.

(f) The arbitration process - The Arbitration Program Description sets forth the details of the arbitration process, including procedures for establishing the time and place of the hearing, submissions to the arbitrator, authority of the arbitrator, and format of the hearing.

(g) Filing of award

(i) Announcement and submission of award - The arbitrator submits the original award to the ADR Administrator within ten (10) calendar days following the close of the hearing and serves a copy thereof on all parties, with proof of service. The ADR Administrator makes a record of the service on the Court's docket sheet.

(ii) Form of award - The award must state clearly the name or names of the prevailing parties and the parties against whom it is rendered, and the precise amount of money and other relief awarded, if any, including prejudgment interest, costs, fees and all attorney's fees. The award must be in writing and signed by the arbitrator. Unless all parties have consented to arbitration, the amount of the award, exclusive of interest and costs, may not exceed $150,000.

(iii) Entry of judgment on award and time for demand for trial de novo - Within thirty (30) days of the submission of the award, a party may file and serve a written demand for a trial de novo. If a demand for trial de novo is not timely made, the Clerk enters judgment on the award, in accordance with Rule 58 of the Federal Rules of Civil Procedure. The judgment has the same effect as any judgment of the Court in a civil action, except that no appeal lies from such a judgment.

(iv) Sealing of results - The contents of the award must not be made known to the judge assigned to the case. If a trial de novo is demanded, the ADR Administrator places all arbitration documents in a sealed envelope before forwarding them to the Clerk of the Court for filing.

(h) Partial demand for trial de novo in multiple party cases - In arbitrations involving multiple parties, the following rules apply:

(i) Each party may demand a trial de novo for claims by or against that party. However, as to any particular party, a trial de novo may only be demanded as to all claims regarding that party.

(ii) A party who does not demand a trial de novo may nevertheless demand a conditional trial de novo. Under a demand for a conditional trial de novo, the

demand will only be effective if one or more of the opposing parties also demand a trial de novo. If no other party demands a trial de novo, the conditional trial de novo demand will result in the entry of judgment on the award as to all parties.

(iii) If a party makes a demand for a conditional trial de novo under subsection (h)(ii), and some of the other parties make demands for a trial de novo and some do not, for the purpose of the cost provisions of subsection (j)(ii), the party who made the demand for a conditional trial de novo is deemed to have demanded a trial de novo as to those parties who did not make such a demand.

(i) Limitations on evidence in the trial de novo - At a trial de novo, no evidence of or concerning the arbitration may be received except for impeachment or as stipulated to by the parties.

16.7 Summary jury trials; summary bench trials

(a) Summary jury trial - The summary jury trial is an abbreviated proceeding during which the parties' attorneys summarize their case before a six-person jury. Unless the parties stipulate otherwise, the verdict is advisory only.

(b) Summary bench trial - A summary bench trial is an abbreviated proceeding during which the parties' attorneys summarize their case before a judge or magistrate judge. Unless the parties stipulate otherwise, the verdict is advisory only.

16.8 Settlement conferences - The Court may order a settlement conference to be held before a district judge or a magistrate judge. All parties may be required to be present. For parties that are not natural persons, a natural person representing that party who possesses ultimate settlement authority may be required to attend the settlement conference. In cases where an insured party does not have full settlement authority, an official of the insurer with ultimate authority to negotiate a settlement may also be required to attend.

VI. TRIALS

Local Civil Rule 39. Trial procedures

39.1 Exhibits during trial - Exhibits shall be premarked in accordance with the order issued by the Court.

39.2 Exhibits after trial

(a) Unless the Court orders otherwise, exhibits shall not be filed with the Clerk, but shall be retained in the custody of the respective attorneys who produced them in court.

(b) In case of an appeal, a party, upon written request of any party or by order of the Court, shall make available all the original exhibits in that party's possession, or true copies thereof, to enable such other party to prepare the record on appeal, at which time and place such other party shall also make available all the original exhibits in that party's possession. The parties are encouraged to designate which exhibits are necessary for the determination of the appeal. The parties are to submit to the Clerk of this Court a list of those exhibits so designated indicating in whose custody they remain. The attorney who has custody of the exhibits shall be charged with the responsibility for their safekeeping and transportation to the Court of Appeals. All exhibits which are not designated as necessary for the determination of the appeal shall remain in the custody of the respective attorneys who shall have the responsibility of promptly forwarding same to the Clerk of the Court of Appeals upon request.

(c) For good cause shown, the Court may order the Clerk to take custody of any or all exhibits on behalf of a party. If the Clerk does take custody of any exhibits, parties are to remove them within thirty (30) days after the mandate of the final reviewing court is filed. Parties failing to comply with this rule shall be notified by the Clerk to remove their exhibits and upon their failure to do so within thirty (30) days, the Clerk may dispose of them as the Clerk may see fit.

Local Civil Rule 40. Trial date

40.1 Scheduling - Cases shall be set for trial in the manner and at the time designated by the judge before whom the cause is pending. Any case may be assigned from one judge to another with the consent of both judges to promote the efficient administration of justice or to comply with the Speedy Trial Act in another case.

40.2 Continuances - A motion for a continuance of a trial or other proceeding shall be made only for good cause and as soon as the need arises.

40.3 Notice of Settlement - Whenever a case is settled or otherwise disposed out of court, counsel for all parties shall assure that immediate notice is given to the Court. Should a failure to provide immediate notice result in having jurors unnecessarily report for service in connection with the case, the Court may, on its own motion, for good cause shown, assess costs incurred in having jurors report for service equally between the parties or against one or more of the parties responsible for failure to notify the Court.

Local Civil Rule 41. Involuntary dismissal for want of prosecution or failure to follow rules

41.1 A judicial officer may issue an order to show cause why a case should not be dismissed for lack of prosecution or for failure to comply with these rules, the Federal Rules of Civil Procedure, or any court order. If good cause is not shown within the time set in the show cause order, a district judge may enter an order of dismissal with or without prejudice, with or without costs. Failure of a plaintiff to keep the Court apprised of a current address shall be grounds for dismissal for want of prosecution.

Local Civil Rule 43. Attorney as witness

43.1 Leave of court to conduct the trial of an action in which the attorney is to be a witness shall be sought in advance of trial when feasible.

Local Civil Rule 45. Service of subpoenas

45.1 All subpoenas delivered to the United States Marshal's Office for service shall allow a minimum of five (5) working days if within the Western District of Michigan, or ten (10) working days if outside the district, prior to the required appearance.

Local Civil Rule 47. Confidentiality of juror information

47.1 All information obtained from juror questionnaires shall be confidential. Inspection of juror questionnaires shall be permitted only during the business hours of the Clerk's Office, beginning three (3) business days before trial and continuing through voir dire. Upon request of the Court, juror questionnaire copies will be available from the Clerk's Office for counsel beginning three (3) business days before trial. Juror questionnaires will not be available via mail or facsimile transmission. All questionnaires must be returned to the jury clerk after the jury has been sworn.

VII. JUDGMENT

Local Civil Rule 54. Bill of costs

54.1 If the parties in a case can agree on costs, it is not necessary to file a cost bill with the Clerk. If the parties cannot agree, a bill of costs shall be filed with the Clerk within thirty (30) days from the entry of judgment. If a bill of costs is filed, any party objecting to the taxation of costs must file a motion to disallow all or part of the claimed costs within ten (10) days of service of the bill of costs on that party. The motion and response thereto shall be governed by LCivR 7.1 and 7.3.

VIII. PROVISIONAL AND FINAL REMEDIES

Local Civil Rule 65. Bonds and sureties

65.1 In all civil actions the Clerk shall accept as surety upon bonds and other undertakings a surety company approved by the United States Department of Treasury, cash or an individual personal surety residing within the district. The Clerk shall maintain a list of approved surety companies. Any personal surety must qualify as the owner of real estate within this district of the full net value of twice the face amount of the bond. Attorneys or other officers of this Court shall not serve as sureties. This rule shall apply to supersedeas bonds and any other bonds required by law.

Local Civil Rule 67. Deposit in court; payment of judgment

67.1 Deposit of funds - Any order requiring the Clerk to make investment of funds in an interest bearing account shall not be effective until such order is personally served on the Clerk.

67.2 Payment of judgment - Except with respect to litigation in which the United States is a party, the Clerk will not, unless authorized by order of the Court, accept payment of judgments. Upon receipt of payment of a judgment, however, the party shall file with the Clerk an acknowledgment of payment.

IX. SPECIAL PROCEEDINGS

Local Civil Rule 71A. Condemnation cases

71A.1 When the United States files separate land condemnation actions and concurrently files a single declaration of taking relating to those separate actions, the Clerk is authorized to establish a master file so designated, in which the declaration of taking shall be filed, and the filing of the declaration of taking therein shall constitute a filing of the same in each of the actions in which it relates.

Local Civil Rule 72. Authority of United States magistrate judges

72.1 The United States magistrate judges of this district are hereby empowered to perform all duties authorized by 28 U.S.C. § 636 and any other duty not inconsistent with the Constitution and laws of the United States, as more fully set forth below.

(a) Duties under 28 U.S.C. § 636(a) - Each magistrate judge of this Court is empowered to perform all duties prescribed by 28 U.S.C. § 636(a).

(b) Determination of nondispositive pretrial matters - 28 U.S.C. § 636(b)(1)(A) - A magistrate judge may hear and determine any procedural or discovery motion or other pretrial matter in a case, other than the motions which are specified in subsection (c) of this rule.

(c) Recommendations regarding case-dispositive motions - 28 U.S.C. § 636(b)(1)(B)

(i) A magistrate judge may submit to a judge of the Court a report containing proposed findings of fact and recommendations for disposition by the judge of the following pretrial motions in civil cases:

(A) motion for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

(B) motions for judgment on the pleadings;

(C) motions for summary judgment;

(D) motions to dismiss or permit the maintenance of a class action;

(E) motions to dismiss for failure to state a claim upon which relief may be granted;

(F) motions to involuntarily dismiss an action; or

(G) motions for review of default judgments.

(ii) A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this rule.

(d) Prisoner cases under 28 U.S.C. §§ 2254 and 2255 - A magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing proceedings in the United

States District Courts under §§ 2254 and 2255 of Title 28, United States Code and may review all other applications for relief made under 28 U.S.C. Chapter 153. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and may submit to a judge a report containing proposed findings of fact and recommendations for disposition of the petition by the judge. Any order disposing of the petition may only be made by a judge.

(e) Prisoner cases under 42 U.S.C. § 1983 - A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and may submit to a judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners challenging the conditions of their confinement.

(f) Other duties - A magistrate judge is also authorized to:

(i) exercise all authority conferred upon United States magistrate judges by the Federal Rules of Civil Procedure;

(ii) conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in cases;

(iii) conduct voir dire and select petit juries to the extent allowed by law;

(iv) accept petit jury verdicts in cases in the absence of a judge;

(v) issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties witnesses or evidence needed for investigations or for court proceedings;

(vi) order the exoneration or forfeiture of bonds;

(vii) conduct proceedings for the collection of civil penalties of not more than $200 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. §§ 4311 (d) and 12309 (c);

(viii) conduct examinations of judgment debtors in accordance with Rule 69 of the Federal Rules of Civil Procedure;

(ix) conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act;

(x) perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the

United States and the appointment of counsel therein;

(xi) conduct final hearings and decide routine motions for dismissal and continuance in naturalization cases in which petitioners are recommended by the Immigration and Naturalization Service without reservation;

(xii) issue summons, search warrants, orders or other process authorizing agents and officers of the Internal Revenue Service or other authorized persons to enter premises and to make such search as is necessary in order to levy and seize property pursuant to Section 6331 of the Internal Revenue Code or other applicable provision of law;

(xiii) conduct proceedings in accordance with 26 U.S.C. §§ 7402(b) and 7604(b) regarding enforcement of Internal Revenue Service summonses; and

(xiv) perform any additional duty not inconsistent with the Constitution and laws of the United States.

72.2 Assignment of matters to magistrate judges - Unless otherwise ordered by the judge to whom a case is assigned, the magistrate judge assigned to any case may hear and determine any nondispositive pretrial matters in that case without any further order of reference.

(a) General cases - The method for assignment and reassignment of duties to a magistrate judge and for the allocation of duties among the several magistrate judges of the Court shall be made in accordance with orders of the Court or by special designation of a judge.

(b) Social Security, habeas corpus and prisoner civil rights cases - At the time of filing any social security, habeas corpus or prisoner civil rights case, the Clerk shall assign the case to a judge and to a magistrate judge in accordance with procedures established by these rules and the implementing orders of the Court. The assigned magistrate judge may enter such orders and conduct such proceedings in that case as are authorized by statute or rule, without any further order of reference. An order disposing of the case may only be entered by a judge.

72.3 Review and appeal of magistrate judges' decisions

(a) Appeal of nondispositive matters - 28 U.S.C. § 636(b)(1)(A) - Any party may appeal from a magistrate judge's order determining any motion or matter within ten (10) days after service of the magistrate judge's order, unless a longer time is prescribed by the magistrate judge or a judge. Such party shall file and serve a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. In any case in which the decision of the magistrate judge is reflected only in an oral opinion on the record, the appealing party shall provide the district judge with a

transcript of the oral opinion, unless excused by the district judge. Any party may respond to another party's objections within fourteen (14) days of service. Objections and responses shall conform to the page limits for briefs set forth in LCivR 7.3(b). A judge of the Court shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law.

(b) Review of case-dispositive motions and prisoner litigation - 28 U.S.C. § 636(b)(1)(B) - Any party may object to a magistrate judge's proposed findings, recommendations or report within ten (10) days after being served with a copy thereof unless a longer time is prescribed by the magistrate judge or a judge. Such party shall file and serve written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objections are made and the basis for such objections. Any party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. Objections and responses shall conform to the page limits for briefs set forth in LCivR 7.2(b). A judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only where required by law, and may consider the record developed before the magistrate judge, making a de novo determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

(c) Special master reports - 28 U.S.C. § 636(b)(2) - Any party may seek review of, or action on, a special master report filed by a magistrate judge in accordance with the provisions of Rule 53(e) of the Federal Rules of Civil Procedure.

(d) Appeals from other orders of a magistrate judge - Appeals from any other decisions and orders of a magistrate judge not provided for in this rule should be taken as provided by governing statute, rule, or decisional law.

Local Civil Rule 73. Consent jurisdiction of magistrate judges

73.1 Conduct of trials and disposition of cases upon consent of the parties -28 U.S.C. § 636(c) - Upon the consent of all parties, a magistrate judge may conduct any or all proceedings in any case, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings, a magistrate judge may hear and determine any and all pretrial and post-trial motions, including case-dispositive motions.

73.2 Notice - The Clerk shall notify the parties in cases of their option to consent to have a magistrate judge conduct any or all proceedings as provided by law.

73.3 Execution of consent - The Clerk shall not accept a consent form unless it has been signed by all the parties in a case. No consent form will be made available, nor will its contents be made known, to any judge or magistrate judge, unless all parties have consented to the reference to a magistrate judge. No magistrate judge or other court official may attempt to persuade or induce any party to consent to the reference of any matter to a magistrate judge. This rule, however, shall not preclude a judge or magistrate judge from informing the parties that they have the option of referring a case to a magistrate judge.

73.4 Reference - After the consent form has been executed and filed, the Clerk shall transmit it to the judge to whom the case has been assigned for approval and referral of the case to a magistrate judge. Once the case has been assigned to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the Clerk of Court to enter a final judgment in the same manner as if a judge had presided.

73.5 Suspension of rule - This rule may be suspended in those instances when the Court determines that the other duties of the magistrate judges preclude their availability for this purpose.

X. DISTRICT COURTS AND CLERKS

Local Civil Rule 77. District courts and clerks; issuance of process

77.1 Time and place of holding court - The Court shall be deemed to be in continuous session for transacting judicial business on all business days throughout the year. Proceedings may be held at such times and places within the district as the judge to whom the case is assigned shall designate.

77.2 Clerk's Office - The Court maintains Southern Division offices in Grand Rapids, Kalamazoo and Lansing, and a Northern Division office in Marquette.

77.3 Issuance of process - Any party requesting the issuance of any process or who initiates any proceeding in which the issuance of process is required by statute, rule or order, shall prepare all required forms, including the following: (a) Summons; (b) Warrants of Seizure and Monition; (c) Subpoenas to Witnesses; (d) Certificates of Judgment; (e) Writs of Execution; (f) Orders of Sale; (g) All process in garnishment or other aid in execution; and (h) Civil cover sheet. The party where necessary shall present the process to the Clerk for signature and sealing. The Clerk shall, upon request, and subject to current availability, make reasonable supplies of all blank official forms of process available to attorneys admitted to practice in this Court, or their agents or employees.

77.4 Notice of state interests - In every case brought against the State of Michigan, or an official thereof, or against any of the state's departments, agencies, boards or commissions, or a person designated as the head or one of the members thereof, the Clerk shall immediately send to the Attorney General of the State a copy of the complaint, petition, application or other paper initially filed to institute the claim, showing the date on which it was filed. Noncompliance with this rule shall not provide any defense to any part of the action.

Local Civil Rule 79. Books and records kept by the Clerk

79.1 Custody of files - Files in Southern Division cases shall be maintained in the divisional office where the judge or magistrate judge assigned to the case sits. All Northern Division files shall be maintained in Marquette.

79.2 Removal of files, exhibits and papers - No files, pleadings, exhibits or papers shall be removed from the offices of the Clerk except upon order of the Court. Whenever files, pleadings, exhibits or papers are removed from an office of the Clerk, the person receiving them shall sign and deliver to the Clerk a receipt therefor.

79.3 Duplication of papers - The Clerk shall make reasonable arrangements for the duplication of unrestricted papers in any court file.

XI. GENERAL PROVISIONS

Local Civil Rule 83. Attorneys; bankruptcy; miscellaneous

83.1 Attorneys

(a) Definitions - As used in Local Rules 83.1(a) through 83.1(q), these terms are defined below.

(i) "Discipline" means an order entered against an attorney by the Michigan Attorney Discipline Board, a similar disciplinary authority of another state, or a state or federal court, revoking or suspending an attorney's license or admission before a court to practice law, placing an attorney on probation or inactive status, requiring restitution, or a transfer to inactive status in lieu of discipline.

(ii) "Chief Judge" means the Chief Judge or another district judge designated to perform the Chief Judge's functions under these rules.

(iii) "Practice in this Court," means, in connection with an action or proceeding pending in this Court, to appear in, commence, conduct, prosecute, or defend the action or proceeding; appear in open court; sign a paper; participate in a pretrial conference; represent a client at a deposition; counsel a client in the action or proceeding for compensation; or otherwise practice in this Court or before an officer of this Court.

(iv) "State" means a state, territory, commonwealth, or possession of the United States, and the District of Columbia.

(v) "Serious crime" means:

(A) a felony; or

(B) a crime, a necessary element of which, as determined by the statutory or common law definition of the crime in the jurisdiction of the conviction, involves interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, willful failure to pay income tax, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy, or solicitation of another to commit a serious crime.

(b) Roll of attorneys - The bar of this Court consists of those currently admitted to practice in this Court. The Clerk shall maintain the roll of admitted attorneys.

(c) Eligibility for admission

(i) Eligibility - A person who is duly admitted to practice in a court of record of a state, and who is in active status and in good standing, may apply for admission to the bar of this Court, except as provided in (ii) below.

(ii) Effect of prior discipline - If the applicant has been held in contempt, disciplined, or convicted of a crime, the Chief Judge shall make an independent determination as to whether the applicant is qualified to be entrusted with professional matters and to aid in the administration of justice as an attorney and officer of the Court. An applicant dissatisfied with the decision of the Chief Judge may within thirty (30) days file a petition for a hearing before a three judge panel as described in LCivR 83.1(m)(iii).

(iii) Pro hac vice admissions - This Court disfavors pro hac vice admission and prefers that all lawyers appearing before it become full members of the bar of the Court. Pro hac vice admission may nevertheless be allowed on a temporary basis pending full admission, or in unusual circumstances.

(d) Procedure for admission

(i) An applicant for admission to the bar of this Court shall pay the fee established by the Court and complete the application provided by the Clerk. The following information must be included in the application:

(A) office address and telephone number;

(B) the date of admission and each jurisdiction where the applicant has been admitted to practice; and

(C) whether the applicant has ever been held in contempt, subjected to discipline as defined by these rules or convicted of a crime. If so, the applicant shall state the facts and the final disposition of each such instance.

(ii) A sponsor must sign a declaration supporting the application for admission. A sponsor may be a member of the bar of this Court or, for applicants residing in another state, a judge of a court of record of that state, or a federal judge. The Chief Judge may waive the sponsorship requirement for newly admitted members of the State Bar of Michigan.

(iii) The application for admission shall be accompanied by a current certificate of active status and good standing issued by a state court or other state licensing

authority.

(iv) If the Court grants the application, the applicant shall take or sign the oath of office. The Clerk shall issue a certificate of admission.

(e) Limited pre-admission practice - An attorney may appear on record and file papers in a case or proceeding before actual admission to practice in this Court if:

(i) the attorney pays the fee established by the Court;

(ii) the attorney files the application required by this rule with the Clerk; and

(iii) the attorney is admitted before a personal appearance in court.

(f) Local counsel - The Court may, in its discretion, require any attorney whose office is a great distance from the courthouse to retain local counsel. Local counsel shall enter an appearance in the case and shall have both the authority and responsibility for the conduct of the case should lead counsel be unavailable for any appearance, hearing or trial.

(g) Government attorneys - An attorney representing the United States, or an agency of the United States may practice in this Court in official capacity without applying for admission. If the attorney does not have an office in the district, he or she shall designate the United States Attorney or an Assistant United States Attorney for this district to receive service of all notices and papers. Service of notice on the United States Attorney or designated assistant shall constitute service on the nonresident government attorney.

(h) Law student practice

(i) Admission - Upon a satisfactory showing of eligibility and taking of the prescribed oath, a law student in an approved program may appear before the Court under the supervision of an attorney who has been duly certified. The supervising attorney may be an attorney in the U.S. Attorney's Office, an attorney in private practice admitted to practice before this Court, or a faculty member of an ABA-approved law school teaching in an eligible law school clinical program as defined in (iii) below.

(ii) Eligibility of law student - To be eligible to practice, a law student must:

(A) be enrolled in, or have graduated from, a law school approved by the American Bar Association;

(B) have completed at least two-thirds of the credit hours necessary for graduation from that law school;

(C) be certified by the dean of the law school as being of good character and of sufficient legal ability and training to perform as a legal intern;

(D) have a working knowledge of the Federal Rules of Civil and Criminal Procedure, Evidence, and Code of Professional Responsibility;

(E) have been certified by the Court pursuant to this rule;

(G) if the student qualifies as a legal intern under a supervising law school faculty member, be registered for credit in a law school clinical program which has been certified by the Court; and

(H) have been appropriately introduced to the Court by a member of the bar of this Court or by the supervising faculty member.

(iii) Eligibility of program

(A) An eligible law school clinical program:

(1) must be offered for credit at a law school approved by the American Bar Association;

(2) must be supervised by a full-time or adjunct law school faculty member who is admitted to practice before this Court;

(3) must include academic and practical advocacy training within the program;

(4) must be certified by this Court;

(5) must provide malpractice insurance for its activities, supervisors and student participants in the legal representation of any clients;

(6) must designate an official within the Western District to whom all notices may be sent in connection with this rule or any legal representation provided pursuant to this rule; and

(7) may arrange for a supervisor to accept compensation other than from a client, such as compensation under the Criminal Justice Act.

(B) An eligible non-law school clinical program:

(1) must be supervised by a member of a bar who is admitted to practice before this Court;

(2) must be developed to provide practical advocacy training within the program;

(3) must provide direct supervision by the supervising attorney;

(4) must be for a period of no less than fourteen (14) weeks;

(5) must be certified by the Court;

(6) must provide malpractice insurance for its activities, supervisors and student participants in the legal representation of any client under this program;

(7) may be, but need not be, under the direction of a full-time or adjunct faculty member of a law school; and

(8) must identify the supervising attorney to whom all notices may be sent.

(iv) Requirements for supervisor - A supervisor must:

(A) if a full-time or adjunct member of a law school faculty, be certified by the dean of the law school as being of good character, and as having sufficient legal ability and adequate litigation experience to fulfill the responsibilities as the supervisor. If the supervisor is not a member of a law school faculty, the certification may be provided by a practicing member of the bar;

(B) be admitted to practice in this Court;

(C) be present with the student in court and at other proceedings in which testimony is taken and as required under subsection (e) of this rule;

(D) cosign all pleadings or other documents filed with the Court;

(E) assume full personal and professional responsibility for a student's guidance in any work undertaken and for the quality of a student's work, and be available for consultation with represented clients;

(F) assist and counsel the student in activities pursuant to this rule and review all such activities with the student to the extent required for the proper practical training of the student and protection of the client; and

(G) be responsible for supplemental oral or written work for the student as is necessary to ensure proper representation of the client.

(v) Approved activities - A certified student under the personal supervision of a supervisor may participate in activities as set out below.

(A) A student may represent any client, including federal, state or local government bodies, if the client on whose behalf the student is appearing has indicated in writing consent to that appearance and the supervising attorney has also indicated in writing approval of that appearance.

(B) A student may represent a client in any criminal, civil or administrative matter on behalf of any person or governmental body. However, any judge or magistrate judge of this Court retains the authority to limit a student's participation in any individual case before that judge or magistrate judge.

(C) Representation shall include holding of consultations, preparation of documents for filing or submission to the Court, participation in discovery proceedings and the participation in trials and other court proceedings.

(D) The supervising attorney must be present with the student for all court appearances or for the taking of oral depositions except that a legal intern under a law school clinical program may appear in court without the supervising attorney unless the Court directs the presence of the supervisor. The Court shall be advised in advance whenever a legal intern is scheduled to appear in court without a supervising attorney.

(E) A student may make no binding commitments on behalf of an absent client prior to client and supervisor approval. Documents or papers filed with the Court must be read, approved and cosigned by the supervising attorney. The Court retains the authority to establish exceptions to such activities.

(F) A judge of this Court may terminate the admission of the legal intern at any time without prior notice or hearing or showing of cause.

(vi) Compensation - An eligible law student may neither solicit nor accept compensation or remuneration of any kind for services performed pursuant to this rule from the person on whose behalf services are rendered; but this rule will not prevent an attorney, legal aid bureau, law school or state or federal agency from paying compensation to an eligible law student, or making such charges for services as may be proper.

(vii) Certification of student - Certification of a student by the law school dean or designee, if such certification is approved by the Court, shall be filed with the Clerk and unless it is sooner withdrawn, shall remain in effect until the expiration of twelve (12) months. Certification will automatically terminate if the student does not take the first bar examination following graduation, or if the student fails to achieve a passing grade in the bar examination, or if the student is admitted to full practice before this Court. Certification of a student to appear in a particular case may be withdrawn by the Court at any time, in the discretion of the Court and

without any showing of cause.

(viii) Certification of program - Certification of a program by the Court shall be filed with the Clerk and shall remain in effect indefinitely unless withdrawn by the Court. Certification of a program may be withdrawn by the Court at any time, in the discretion of the Court and without any showing of cause.

(ix) Certification of supervisor - Certification of a supervisor by the law school dean or member of the bar, if such certification is approved by the Court, shall be filed with the Clerk and shall remain in effect indefinitely unless withdrawn by the Court. Certification of a supervisor may be withdrawn by the Court at any time, in the discretion of the Court and without any showing of cause. Any judge or magistrate judge of this Court retains the authority to withdraw or limit a supervisor's participation in any individual case before that judge or magistrate judge. Certification of a supervisor may be withdrawn by the dean or attorney who originally certified the supervisor by mailing the notices of withdrawal to the Clerk.

(i) Unauthorized practice

(i) A person must be a member in good standing of the bar of this Court to practice in this Court or to hold himself or herself out as being authorized to practice in this Court, except that:

(A) a party may proceed in pro per;

(B) government attorneys may practice under LCivR 83.1(g); and

(C) law students may practice under LCivR 83.1(h).

(D) A licensed attorney who is not under suspension or disbarment in this or another federal or state court may:

(1) cosign papers or participate in pretrial conferences in conjunction with a member of the bar of this Court;

(2) represent a client in a deposition; and

(3) counsel a client in an action or proceeding pending in this Court.

(j) Consent to standards of conduct and disciplinary authority - An attorney admitted to the bar of this Court or who practices in this Court as permitted by this Rule is subject to the Rules of Professional Conduct adopted by the Michigan Supreme Court, except those rules a majority of the judges of this Court exclude by administrative order, and consents to the jurisdiction of this Court and the Michigan Attorney Grievance Commission and Michigan Attorney Discipline Board for purposes of disciplinary proceedings. Any person practicing

or purporting to practice in this Court shall be presumed to know the Local Rules of this Court, including those provisions relating to sanctions for violations of these Rules.

(k) Attorney discipline

(i) Discipline other than suspension or disbarment - In accordance with the provisions of this Rule, a district judge may impose discipline, except suspension or disbarment from this Court, on any attorney who engages in conduct violating the Rules of Professional Conduct; willfully violates these rules, the Federal Rules of Civil Procedure, or orders of the Court; or engages in other conduct unbecoming of a member of the bar of this Court. Prior to the imposition of discipline, the attorney shall be afforded an opportunity to show good cause, within such time as the Court shall prescribe, why the discipline should not be imposed. Upon the attorney's response to show cause, and after hearing, if requested and allowed by the district judge, or upon expiration of the time prescribed for a response if no response is made, the Court shall enter an appropriate order.

(ii) Suspension or disbarment

(A) Initiation of proceedings - Formal disciplinary proceedings leading up to possible suspension or disbarment shall be initiated by the issuance of an order to show cause, signed by the Chief Judge. Such order may be issued by the Court, on its own initiative or in response to allegations brought to the attention of the Court in a written complaint, if the Court determines further investigation is warranted. The Chief Judge may dismiss a complaint and refuse to issue an order to show cause if the complaint is found to be frivolous. The order to show cause issued by the Court shall include the specific facts that give rise to the proposed discipline, including the date, place and nature of the alleged misconduct, and the names of all persons involved. A copy of the order and any supporting documents shall be mailed to the attorney who is the subject of investigation. The attorney shall have twenty (20) days from the entry of the order in which to respond. The response shall contain a specific admission or denial of each of the factual allegations contained in the order and, in addition, a specific statement of facts on which the respondent relies, including all other material dates, places, persons and conduct, and all documents or other supporting evidence not previously filed with the order that are relevant to the charges of misconduct alleged. The response shall contain a specific request for a hearing, if so desired by the respondent.

(B) Hearing - A disciplinary hearing shall be held only when the attorney under investigation has requested such a hearing in a timely response.

(1) Procedures - If it is determined that a hearing is necessary, the Chief Judge shall provide the attorney with written notice of the

hearing a minimum of twenty (20) days before its scheduled date. The notice shall contain the date and location of the hearing and a statement that the attorney is entitled to be represented by counsel, to present witnesses and other evidence, and to confront and cross examine adverse witnesses.

(2) Conduct of the hearing - The hearing shall be conducted by a panel of three judicial officers appointed by the Chief Judge, consisting of at least one active or senior district judge. The other members of the panel may include senior judges, bankruptcy judges, and magistrate judges. Any judge who initiated the request for discipline or before whom the allegation giving rise to the request took place shall not be appointed to the panel. The presiding judicial officer shall have the authority to resolve all disputes on matters of procedure and evidence which arise during the course of the proceeding. The presiding judicial officer may appoint an attorney to assist in the preparation and presentation of the evidence supporting the allegations giving rise to the request for discipline. All witnesses shall testify under penalty of perjury. Such hearings shall be confidential and be recorded. A decision of a majority of the three judge panel shall be final and binding. A written order shall be prepared which shall include the findings of the panel and disposition of the disciplinary charges. The order shall be a matter of public record and be sent to the respondent and complainant.

(3) Burden of proof - The conduct giving rise to the request for discipline shall be proven by a preponderance of the evidence.

(4) Failure to appear - The failure of the respondent to appear at the hearing shall itself be grounds for discipline.

(iii) Reinstatement after expiration of court-imposed discipline - After expiration of a period of suspension imposed by this Court, an attorney may apply for reinstatement by filing an affidavit under LCivR 83.1(m)(iii). The application for reinstatement will be decided in accordance with the process set forth in that rule. Unless and until reinstated, a suspended attorney must not practice before this Court.

(l) Attorneys convicted of crimes

(i) Serious crimes

(A) When an attorney admitted to practice before this Court is convicted of a serious crime, the attorney is automatically suspended from practice in this Court without further action of the Court, whether the conviction resulted

from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of an appeal. On receipt of written notice of conviction of a serious crime of an attorney admitted to practice before this Court, the Chief Judge shall enter an order suspending the attorney. The suspension shall continue until after final disposition of an appeal of the conviction, proceedings on remand after an appeal, and any disciplinary investigation and proceeding based on the conduct that resulted in the conviction. The Court shall serve a copy of the order on the attorney by certified mail.

(B) On application, the Chief Judge shall reinstate the attorney on a showing that:

(1) there is a jurisdictional deficiency that establishes that the suspension may not properly be ordered; such as that the crime did not constitute a serious crime or that the attorney is not the individual convicted; or

(2) the conviction has been reversed and there is no likelihood of further criminal prosecution or disciplinary action related to the conduct that resulted in the conviction. A reinstatement will not terminate any disciplinary investigation or proceeding based on the conduct that resulted in the conviction.

(ii) Other crimes - If the Court receives written notice of conviction of an attorney admitted to practice before this Court of a crime not constituting a serious crime, the matter shall be referred to the Chief Judge who may initiate proceedings under subsection (k)(i) or (ii) of this rule.

(iii) Obligations to report conviction - An attorney admitted to practice before this Court shall, on being convicted of any crime, immediately inform the Clerk. If the conviction was in this Court, the attorney shall also provide to the Clerk a list of all other jurisdictions in which the attorney is admitted to practice. An attorney knowingly violating this provision may, on notice and after hearing, be charged with criminal contempt.

(m) Discipline by other jurisdictions

(i) Reciprocal discipline

(A) On receipt of written notice that another jurisdiction entered an order of discipline against an attorney admitted to practice in this Court, the Chief Judge shall enter an order imposing the same discipline, effective as of the date that the discipline was effective in the other jurisdiction. If the

discipline imposed in the other jurisdiction has been stayed there, the Court shall defer reciprocal discipline until the stay expires.

(B) When this Court enters an order of discipline against an attorney, the attorney shall provide to the Clerk a list of all other jurisdictions in which the attorney is admitted to practice.

(ii) Application to modify reciprocal discipline

(A) Within thirty (30) days after the effective date of the order of discipline in this Court, the attorney may apply to the Chief Judge for modification or vacation of the discipline.

(B) The Chief Judge shall modify or vacate the discipline if, on the record supporting the order of discipline in the other jurisdiction, the attorney demonstrates or the Chief Judge finds that it clearly appears that:

(1) the procedure in the other jurisdiction constituted a deprivation of due process;

(2) there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not accept as final the conclusion on that subject;

(3) imposing the same discipline in this Court would result in grave injustice; or

(4) the misconduct warrants substantially different discipline.

If the Chief Judge determines that any of these grounds exist, the Chief Judge shall order other appropriate discipline or no discipline.

(iii) Reinstatement after expiration of discipline

(A) An attorney may apply for reinstatement by filing an affidavit of reinstatement stating that the jurisdiction that entered the underlying order of discipline has reinstated the attorney. The Chief Judge shall assign such applications to a panel of three judicial officers consisting of at least one active district judge. The other members of the panel may include senior judges and magistrate judges. Any judge who initiated the request for discipline or before whom the allegation giving rise to request for discipline took place shall not be appointed to the panel. A decision of the majority of the three judge panel shall be final and binding.

(B) The judicial officers assigned to the matter shall within 30 days after assignment schedule a hearing at which the attorney shall have the burden of demonstrating by clear and convincing evidence that:

(1) the attorney has complied with the orders of discipline of this Court and all other disciplinary authorities;

(2) the attorney has not practiced in this Court during the period of disbarment or suspension and has not practiced law contrary to any other order of discipline;

(3) the attorney has not engaged in any other professional misconduct since disbarment or suspension;

(4) the attorney has the moral qualifications, competency and learning in the law required for admission to practice law before this Court; and

(5) the attorney's resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

The Court may condition reinstatement on payment of all or part of the costs of the proceedings in this Court and may impose any of the conditions of reinstatement imposed in the other jurisdiction, or such other conditions as are warranted.

(C) An attorney shall not file an application for reinstatement under this Rule within one year following denial of such an application.

(iv) Obligation to report discipline

(A) An attorney admitted to practice before this Court appearing or participating in a pending matter shall, on being subjected to an order of discipline, immediately inform the Clerk of the order of discipline.

(B) An attorney admitted to practice before this Court shall, before appearing or participating in a matter in the Court after being subjected to an order of discipline that has not previously been reported to the Court, immediately inform the Clerk of the order of discipline.

(C) An attorney knowingly violating this provision may be charged with criminal contempt.

(n) Resignation in other jurisdictions

(i) If an attorney resigns from the bar of another court of the United States while an investigation into allegations of misconduct is pending:

(A) the attorney shall immediately and automatically be disbarred from this Court; and

(B) the attorney shall promptly inform the Clerk of the resignation. An attorney knowingly violating this notification provision may be charged with criminal contempt.

(ii) On receipt of written notice that an attorney has resigned from the bar of another court of the United States or the bar of a state while an investigation into allegations of misconduct was pending, the Chief Judge shall enter an order disbarring the attorney, effective as of the date of resignation in the other jurisdiction.

(iii) An attorney disbarred under this subsection may apply to the Chief Judge for modification or vacation of the disbarment pursuant to LCivR 83.1(m)(ii).

(iv) An attorney disbarred under this subsection may be reinstated if the attorney is readmitted in the jurisdiction from which the attorney resigned and there has been a final disposition of the investigation into allegations of misconduct without an order of discipline.

(o) Service of papers - Service of papers on an attorney under this Rule may be by mail to the address of the attorney shown on the Court's roll of attorneys or the address in the most recent paper the attorney filed in a proceeding in this Court.

(p) Duties of the Clerk

(i) On being informed that an attorney admitted to practice before this Court has been convicted of a crime, the Clerk shall determine whether the Court in which the conviction occurred sent a certificate of the conviction to this Court. If not, the Clerk shall promptly obtain a certificate and file it with the Court.

(ii) On being informed that another court or a state has entered an order of discipline against an attorney admitted to practice before this Court, the Clerk shall determine whether a certified copy of the order has been filed with this Court. If not, the Clerk shall promptly obtain a certified copy of the order and file it with the Court.

(iii) When this Court convicts an attorney of a crime or enters an order of discipline against an attorney, the Clerk shall promptly notify the National Discipline Data Bank operated by the American Bar Association and any other authority that licensed or authorized the attorney to practice.

(q) Other authority - Nothing in this Rule abridges the Court's power to control proceedings before it, including the power to initiate proceedings for contempt under Fed. R. Crim. P. 42 or sanction or disqualify an attorney in a particular case.

83.2 Bankruptcy

(a) Referral of cases under Title 11 to bankruptcy judges - Pursuant to the powers granted by 28 U.S.C. § 157(a) any or all cases under Title 11 and any or all proceedings arising under Title 11 or arising in or related to a case under Title 11 previously filed or hereafter filed shall be referred to the bankruptcy judges of this district.

(b) Bankruptcy court jurisdiction in core and noncore related proceedings - The bankruptcy judge shall determine whether proceedings are core, or noncore related, and shall enter appropriate orders and judgments subject to those appeal rights afforded by 28 U.S.C. § 158 and Fed. R. Bankr. P. 8001-8009. In those noncore related proceedings in which the parties timely object to the entry of a final judgment or order by the bankruptcy judge, the bankruptcy court shall file and serve proposed findings of fact and conclusions of law on all dispositive matters. Objections shall be filed in accordance with Fed. R. Bankr. P. 9033. Upon submission by the bankruptcy court clerk to the district court clerk of the proposed findings of fact and conclusions of law and all objections timely filed thereto, the matter will be randomly assigned to a district judge who will conduct all further proceedings and enter a dispositive order.

(c) Jury trials - Pursuant to 28 U.S.C. §§ 157(e) and 1411(e), the bankruptcy judges in this district are specially designated to conduct jury trials with the express consent of all parties, if the right to jury trial applies in any proceeding that may be heard by a bankruptcy judge. All bankruptcy judges shall adhere to the Jury Selection and Service Act, 18 U.S.C. §§1861-1878, and this Court's jury selection plan. Upon request, the district court clerk shall supply a sufficient number of jurors for jury trials in the bankruptcy court. Procedure in jury cases, including time and form of jury demand, waiver, advisory juries and trial by consent shall be governed by local rule of the bankruptcy court.

(d) Local bankruptcy rules - Pursuant to Rule 83 of the Federal Rules of Civil Procedure and the rules governing bankruptcy practice, a majority of the bankruptcy judges of this district are authorized to make rules of practice and procedure consistent with the Bankruptcy Rules.

83.3. Miscellaneous

(a) Courthouse conduct

(i) Solicitation - Solicitation of business relating to bail bonds or to employment as counsel is prohibited in the courthouse.

(ii) Loitering - Loitering in or about the rooms or corridors of the courthouse is prohibited. Any behavior, group or individual, which impedes or disrupts the orderly conduct of the business of the Court is prohibited.

(iii) Signs - Cards, signs, placards, or banners shall not be brought into any of the courtrooms or hallways leading to courtrooms or on any floor in which courtrooms

are located.

(iv) Enforcement - The United States Marshal, deputy marshals, and the authorized employees of the courthouse shall enforce this rule by ejecting violators from the courthouse or by causing them to appear before one of the judges of this Court for a hearing and for imposition of such punishment as the Court may deem proper.

(v) Photography and recording - The taking of photographs in any office, courtroom or its environs in connection with any judicial proceedings, the broadcast of judicial proceedings by radio, television or other means, or the audio recording of judicial proceedings are prohibited, except that the judicial officer in whose courtroom the proceedings occur may authorize: (1) the use of electronic or photographic means for the preservation or presentation of evidence; and (2) the broadcasting, televising, recording or photographing of investigative, ceremonial or naturalization proceedings.

(b) Certification of issues to state courts - Upon motion or after a hearing ordered by the judge sua sponte, the Court may certify an issue for decision to the highest court of the state whose law governs any issue, claim or defense in the case. An order of certification shall be accompanied by written findings that: (a) the issue certified is an unsettled issue of state law; (b) the issue certified will likely affect the outcome of the federal suit; and (c) certification of the issue will not cause undue delay or prejudice. The order shall also include citation to authority authorizing the state court involved to resolve certified questions. In all such cases, the order of certification shall stay federal proceedings for a fixed time, which shall be subsequently enlarged only upon a showing that such additional time is required to obtain a state court decision. In cases certified to the Michigan Supreme Court, in addition to the findings required by this rule, the Court must approve a statement of facts to be transmitted to the Michigan Supreme Court by the parties as an appendix to briefs filed therein.

(c) Suppression orders - For good cause shown, any party may obtain a protective order for the suppression of any action or of any pleading or other paper. Upon the entry of a suppression order, the Clerk shall prevent all persons, except those designated by the Court, from having access to the suppressed material.

(d) Appearance - An attorney appears by filing any pleading or other paper or by acknowledging in court that the attorney acts in the proceeding on behalf of a party. The appearance of an attorney is deemed to be the appearance of the law firm. Any attorney in the firm may be required by the Court to conduct a court-ordered conference or trial. Withdrawal of appearance may be accomplished only by leave of court.

(e) Amendment - These rules may be amended by a majority vote of the judges of this district in conformity with Rule 83 of the Federal Rules of Civil Procedure.

(f) Payment to court reporters - All parties ordering a transcript must pay in advance by cash or certified check unless the court reporter agrees to other arrangements.